



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 1089**

May 7, 1996 - Offered by JOINT COMMITTEE ON FINANCE.

1 **AN ACT** *to repeal* 101.143 (4) (a) 5.; *to amend* 101.143 (3) (c) 4., 101.143 (3) (c)
2 4. and 101.143 (4) (a) 7.; and *to create* 101.143 (4) (a) 8. and 101.143 (4) (ce) of
3 the statutes; **relating to:** various changes to the petroleum storage remedial
4 action program, extending the time limit for emergency rule procedures,
5 providing an exemption from emergency rule procedures and granting
6 rule-making authority.

*The people of the state of Wisconsin, represented in senate and assembly, do
enact as follows:*

7 **SECTION 1.** 101.143 (3) (c) 4. of the statutes, as affected by 1995 Wisconsin Act
8 27, is amended to read:

9 101.143 (3) (c) 4. Receive written approval from the department of natural
10 resources or, if the discharge is covered under s. 101.144 (2) (b), from the department
11 of commerce that the remedial action activities performed under subd. 3. meet the
12 requirements of s. 144.76 unless rules promulgated by the department of natural
13 resources provide for an alternate means of certifying that the remedial action
14 activities performed under subd. 3. meet the requirements of s. 144.76.

1 **SECTION 2.** 101.143 (3) (c) 4. of the statutes, as affected by 1995 Wisconsin Acts
2 227 and (this act), is amended to read:

3 101.143 **(3)** (c) 4. Receive written approval from the department of natural
4 resources or, if the discharge is covered under s. 101.144 (2) (b), from the department
5 of commerce that the remedial action activities performed under subd. 3. meet the
6 requirements of s. 292.11 unless rules promulgated by the department of natural
7 resources provide for an alternate means of certifying that the remedial action
8 activities performed under subd. 3. meet the requirements of s. 144.76 292.11.

9 **SECTION 3.** 101.143 (4) (a) 5. of the statutes is repealed.

10 **SECTION 4.** 101.143 (4) (a) 7. of the statutes is amended to read:

11 101.143 **(4)** (a) 7. In any fiscal year, the department may not award more than
12 5% of the amount appropriated under s. 20.445 (1) (v) as awards for petroleum
13 product storage systems that are owned by school districts and that are used for
14 storing heating oil for consumptive use on the premises where stored and as awards
15 for home oil tank systems.

16 **SECTION 5.** 101.143 (4) (a) 8. of the statutes is created to read:

17 101.143 **(4)** (a) 8. If an owner or operator or person owning a home oil tank
18 system is conducting approved remedial action activities that were necessitated by
19 a petroleum product discharge from a petroleum product storage system or home oil
20 tank system and those remedial action activities have not remedied the discharge,
21 then the department may approve financial assistance under this section for
22 enhancements to the approved remedial action activities or different remedial action
23 activities that the department determines will remedy the discharge without
24 increasing the overall costs of remedying the discharge. The total amount of an
25 original award under this section plus additional financial assistance provided

1 under this subdivision is subject to the limits in pars. (d) to (e), (ei) and (em) on
2 amounts of awards.

3 **SECTION 6.** 101.143 (4) (ce) of the statutes is created to read:

4 101.143 (4) (ce) *Eligible cost; service providers.* 1. The department may
5 promulgate rules under which costs incurred because of discharges from petroleum
6 product storage systems are not eligible costs under par. (b) unless the owners or
7 operators of those petroleum product storage systems obtain service from the same
8 service provider approved by the department.

9 2. The department may promulgate rules under which the department selects
10 service providers to provide investigation or remedial action services in specified
11 areas. The rules may provide that the costs of a service for which the department
12 has selected a service provider in an area are not eligible costs under par. (b), or that
13 eligible costs are limited to the amount that the selected service provider would have
14 charged, if an owner or operator of a petroleum product storage system located in
15 that area, or a person owning a home oil tank system located in that area, uses a
16 service provider other than the service provider selected by the department to
17 perform the services.

18 **SECTION 7. Nonstatutory provisions; commerce.**

19 (1) **ADDITIONAL AWARDS FOR FAILED REMEDIAL ACTION.** The department of
20 commerce shall study the implementation of section 101.143 (4) (a) 8. of the statutes,
21 as created by this act, with particular attention to the effect of the maximum
22 allowable awards under the petroleum environmental cleanup fund award program.
23 No later than March 1, 1997, the department shall distribute its report on the study
24 to the appropriate standing committees of the legislature, as determined by the
25 president of the senate and the speaker of the assembly, in the manner provided

1 under section 13.172 (3) of the statutes and to the cochairpersons of the joint
2 committee on finance.

3 (2) **EMERGENCY RULES.**

4 (a) The department of commerce may use the procedure under section 227.24
5 of the statutes to promulgate rules under section 101.143 of the statutes, as affected
6 by the laws of 1995. Notwithstanding section 227.24 (1) (c) and (2) of the statutes,
7 the emergency rules may remain in effect for a period not to exceed 2 years.
8 Notwithstanding section 227.24 (1) (a) and (2) (b) of the statutes, the department
9 need not provide evidence of the necessity of preservation of the public peace, health,
10 safety or welfare in promulgating the rules under this paragraph.

11 (b) The department of commerce may not promulgate emergency rules under
12 paragraph (a) after December 31, 1996.

13 **SECTION 8. Nonstatutory provisions; industry, labor and human**
14 **relations.**

15 (1) **EMERGENCY RULES.** Before July 1, 1996, the department of industry, labor
16 and human relations may use the procedure under section 227.24 of the statutes to
17 promulgate rules under section 101.143 of the statutes, as affected by the laws of
18 1995. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the emergency
19 rules may remain in effect for a period not to exceed 2 years. Notwithstanding section
20 227.24 (1) (a) and (2) (b) of the statutes, the department need not provide evidence
21 of the necessity of preservation of the public peace, health, safety or welfare in
22 promulgating the rules under this subsection.

23 **SECTION 9. Effective dates.** This act takes effect on July 1, 1996, or on the day
24 after publication, whichever is later, except as follows:

1 (1) The treatment of section 101.143 (4) (a) 5. and 7. of the statutes and SECTION
2 8 of this act take effect on the day after publication.

3 (2) The treatment of section 101.143 (3) (c) 4. (by SECTION 2) of the statutes
4 takes effect on January 1, 1997.

5 (END)